

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRANDY MILLHOUSE,

Plaintiff,

Case No. 12-cv-12172

v.

HON. GEORGE CARAM STEEH

CONSUMER PORTFOLIO SERVICES, INC.,

Defendant.

_____ /

ORDER DISMISSING SHOW CAUSE ORDER (#4)

On May 15, 2012, defendant removed the instant matter from the Wayne County Circuit Court based on diversity of citizenship jurisdiction. Plaintiff's complaint alleges violation of the Michigan Collection Practices Act, MICH. COMP. LAWS § 445.251 et seq. (MCPA), intentional infliction of emotional distress and invasion of privacy. On May 29, 2012, this court ordered plaintiff to show cause why this cause of action should not be dismissed without allegations that the amount in controversy is in excess of \$75,000.00 exclusive of interests and costs. See Dkt. No. 4.

On June 1, 2012, plaintiff filed a response to the order to show cause. Plaintiff maintains that a fair reading of the complaint establishes that the damages sought by plaintiff are in excess of \$75,000.00. Specifically, the MCPA allows a plaintiff to recover damages "of not less than 3 times the actual damages, or \$150.00, whichever is greater." MICH. COMP. LAWS § 445.257(2). Further, plaintiff requests exemplary or punitive damages, which are allowed under Michigan law for tortious conduct of the defendant. "When determining the jurisdictional amount in controversy in diversity cases, punitive damages

must be considered[,] unless it is apparent to a legal certainty that such cannot be recovered.” Hayes v. Equitable Energy Res. Co., 266 F. 3d 560, 572 (6th Cir. 2001). Therefore, plaintiff’s claim for punitive damages demonstrates that more than \$75,000.00 is in controversy and the court has subject matter jurisdiction over this matter.

Accordingly,

The order to show cause is DISMISSED.

SO ORDERED.

Dated: June 7, 2012

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on
June 7, 2012, by electronic and/or ordinary mail.

s/Marcia Beauchemin
Deputy Clerk